

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
LEGAL UNIT

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October 11, 2017

**NOTICE OF INTENT TO READOPT EMERGENCY REGULATION AND
UPDATED FINDING OF EMERGENCY**

Subject: Emergency Conveyance Fee Reduction
Section 344.30, Conveyance Inspection Program Fees, Title 8, California Code of
Regulations

Notice is hereby given that the Department of Industrial Relations, Division of Occupational Safety and Health ("Division"), proposes to readopt for a second time the Conveyance Fee Reduction emergency regulation that was adopted effective January 30, 2017 (OAL File No. 2017-0120-02 EFP). The emergency regulation amended section 344.30 to reduce most elevator fees by 25%. The emergency regulation can be found at article 8 of chapter 3.2, subchapter 2, of title 8 of the California Code of Regulations, section 344.30. The emergency regulation implements Labor Code section 7314(f)(2)'s mandate of reducing the amount of moneys in the Elevator Safety Account as well as the Governor's 2015-16 fiscal year's budgetary goal of reducing the Elevator Fund's surplus fund balance. This readoption will be submitted to the Office of Administrative Law (OAL) on or before October 21, 2017.

As required for readoption of an emergency regulation, the Division has made substantial progress and is proceeding with diligence to comply with Government Code section 11346.1(e) and California Code of Regulations, title 1, section 52(b)(1). Since the emergency regulation has been in place, the Division has determined that further adjustments will be necessary to satisfactorily reduce the Elevator Safety surplus fund balance within the desired time frame. A readoption of the emergency regulation will provide the Division with additional time to (1) evaluate the current and projected surplus reduction rate (burn rate); (2) modify the text of the original emergency regulation to address any necessary adjustments; and (3) provide notice to constituents as appropriate.

The Division is currently working towards completion of the documentation necessary to commence the regular rulemaking process. The Division anticipates publishing the text of the proposed permanent regulations for rulemaking in early November, 2017, and hold a public hearing forty-five (45) days thereafter. Readoption of the emergency regulations will keep the emergency regulations in place pending rulemaking for the permanent provider Conveyance Fee Reduction regulation.

Pursuant to California Code of Regulations, title 1, section 52(b)(2) there have been no changes in emergency circumstances since the original adoption of the emergency regulation. This readoption is necessary to allow the Division to continue to make technical revisions to the fee structure prior to promulgating a permanent regulation.

Pursuant to California Code of Regulations, title 1, section 52(c), the Division hereby incorporates by reference the rulemaking record of OAL File No. 2017-0120-02 EFP and OAL File No. 2017-0720-06 EFP. Included with this notice is the specific regulatory language now in place following the Division's emergency action and the Notice of Proposed Emergency Regulation and Finding of Emergency that was initially submitted to OAL on or about January 13, 2017. Copies of such documents are available on the Division's website at the following address:
<https://www.dir.ca.gov/dosh/doshreg/Elevators/Reduction-of-Inspection-Fees/>

Government Code section 11346.1(a)(2) requires that, at least five (5) working days prior to submission of the proposed readoption action to OAL, the adopting agency issue a notice of the proposed readoption action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed readoption to OAL, OAL shall allow any interested persons five (5) calendar days to submit comments on the proposed readoption as set forth in Government Code section 11349.6(b), and California Code of Regulations, title 1, section 55(b). Upon filing, OAL will have ten (10) calendar days within which to review and make a decision on the proposed readoption. OAL may approve up to two readoptions, each for a period not to exceed ninety (90) days.

The Division has complied with the provisions of Government Code section 11346.1(a)(2), regarding the sending of notice of proposed emergency regulatory action to every person who has filed a request for notice of regulatory action. This notice of readoption was sent electronically on October 11, 2017, to members and attendees of the Cal/OSHA Advisory Committee, as well as to other members of the public who have requested notice of regulatory actions at least five (5) working days prior to submission to OAL.

If you have any questions regarding this proposed emergency action, please contact Denise Cardoso, Staff Counsel, at dcardoso@dir.ca.gov or (510) 286-7348.